

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KASEY SKORUPINSKI

§

§

VS.

§

CIVIL ACTION NO. _____

§

UNITED STATES

§

**PLAINTIFF'S ORIGINAL COMPLAINT
UNDER THE FEDERAL TORT CLAIMS ACT**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Kasey Skorupinski respectfully now comes before this Court and complains of the United States Postal Services as an agency of the United States, stating as follows:

INTRODUCTION

1. This is a negligence claim filed under the auspices of the Federal Tort Claims Act against the United States Postal Service as an agency of the United States. A post office employee negligently caused his government owned vehicle to strike the Plaintiff who was a pedestrian, forcing him to suffer serious injuries. Following the incident, the postal office employee fled the scene and failed to render aid or give his information to the Plaintiff.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U. S. C. § 1331 in that this action arises under the laws of the United States.

3. This Court further has subject matter jurisdiction over this matter pursuant to 28 U. S. C. § 1346(b) in that this is a claim against the Defendant United States Postal Service, as an agency of

the United States, for money damages for personal injuries caused by the negligent and wrongful acts and omissions of employees of the United States Postal Service while acting within the course and scope of their office or employment, under the circumstances where the Defendant, if a private person would be liable to the Plaintiff.

4. Jurisdiction founded upon the federal law is proper in that this action is premised upon federal causes of action under the Federal Tort Claims Act (hereinafter “FTCA”), 28 U. S. C. § 2671, et. seq.

5. Pursuant to the FTCA, 28 U. S. C. §2671, et seq. on or about December 18, 2018, Plaintiff presented his claim to appropriate federal agencies for administrative settlement under the FTCA. Negotiations continued between the parties in an attempt to settle this matter. On September 25, 2020, United States Postal Service sent notice to Plaintiff that it was denying Plaintiff’s demand to settle this matter.

6. This action is timely pursuant to 28 U. S. C. § 2401(b) in that it was presented to the appropriate federal agency within two years of accrual and this action was filed within six months of the running of the six-month period after Plaintiff presented his claim to the appropriate agencies.

7. Venue is proper in this district pursuant to 28 U. S. C. §§ 1391(b) and 1291(c), as the events or omissions giving rise to the claims occurred in this judicial district.

Parties

8. Plaintiff Kasey Skorupinski is an individual who resides in Houston, Texas.

9. Defendant United States Postal Service is an agency of the United States and is subject to suit for personal injuries caused by the negligent and wrongful acts and omissions of an employee of the United States while acting within the course and scope of his office or employment,

under the circumstances where the Defendant, if a private person, would be liable to the Plaintiff pursuant to the FTCA. Plaintiff respectfully requests that citation issue on the United States of America to be served pursuant to Rule 4 of the Federal Rules of Civil Procedure.

10. At all times material to this action, Defendant was responsible for the supervision, training and coordination of its employees acting on behalf of a federal agency in an official capacity.

FACTUAL BACKGROUND

11. On December 8, 2018, Mr. Skorupinski was a pedestrian crossing in a crosswalk at the 3600 block of Ella Blvd. and Du Barry Lane when Raymond Punchard, an employee of the United States Postal Service, failed to yield the right of way and struck Plaintiff with his vehicle causing Mr. Skorupinski to suffer serious injuries. Further Mr. Punchard stopped his vehicle after making contact with the Plaintiff, but then fled the scene and failed to render aid or provide information to Plaintiff.

12. At the time of the occurrence of the act in question and immediately prior thereto, Raymond Punchard was within the course and scope of employment for Defendant United States Postal Service as an agency of the United States. Mr. Punchard was driving a government vehicle at the time of his negligent conduct that caused injuries to Plaintiff.

13. Plaintiff received medical treatment for cuts and scrapes to his head and chest as well as pain and injury to his head, chest and lower back.

14. Plaintiff suffers from permanent impairment to his back.

15. Plaintiff suffers from permanent disfigurement to his head and chest.

CAUSE OF ACTION

16. Plaintiff incorporates by reference herein all allegations set forth above.

17. The acts and events set forth above constitute negligent and wrongful acts and omissions of agents and employees of United States Postal Service, namely, under Texas state negligence law, failure to keep such lookout as a person of ordinary prudence would have kept under the same or similar circumstances; failure to yield the right of way to a pedestrian in a crosswalk; failure to timely apply his brakes; failure to keep that lookout for plaintiff's safety that would have been maintained by a very cautious, competent and prudent person under the same or similar circumstances; driver inattention; and failure to yield the right of way while acting within the scope of his office and employment, under circumstances where the Defendant United States Postal Service, if a private person, would be liable to the Plaintiff in accordance with the laws of the State of Texas.

DAMAGES

18. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff Skorpinski was caused to suffer personal injuries, and to incur the following damages, for which he seeks monetary relief:

- a. The physical pain and mental anguish in the past and future;
- b. The reasonable and necessary costs for medical care and treatment, including doctors hospitals, nurses, medicines and other services and supplies in the past and future;
- c. Physical impairment in the past and future;
- d. The physical pain and suffering in the past and future; and
- e. Physical disfigurement in the past and future.

EXEMPLARY DAMAGES

19. Plaintiff seeks punitive or exemplary damages in order to punish and deter the outrageous conduct taken in heedless and reckless disregard for the safety of Mr. Skorupinski and others, as a result of Defendant's employee Raymond Punchard's conscious indifference to the rights, welfare and safety of Mr. Skorupinski and others in violation of the laws of the State of Texas. Plaintiff alleges that Defendant's employee Raymond Punchard's conduct amounted to fraud, gross neglect, and/or malice. Plaintiff is therefore entitled to recover punitive damages in the amount of One Hundred Fifty Thousand Dollars.

JURY DEMAND

20. Pursuant to the Seventh Amendment to the U. S. Constitution and federal Rule f Civil Procedure 38, Plaintiff hereby demands a trial by jury.

RIGHT TO AMEND COMPLAINT

21. Plaintiff reserves the right to amend this Complaint.

22. Based on the foregoing, Plaintiff Kasey Skorupinski respectfully prays that he have and recover judgment in his favor against the United States Postal Service as an agency of he United States for the following:

- a. The damages set forth above in paragraph 18 in the amount of Two Hundred Thousand Dollars;
- b. The exemplary damages set forth above in paragraph 19 in the amount of One Hundred Thousand Dollars;
- c. reasonable attorney's fees for this action and for any and all appeals in this matter;
- d. pre- and post- judgment interest as allowed by law;
- e. costs of court and expert fees for prosecuting Plaintiff's claim; and

f. such other and further relief to which Plaintiff may be justly entitled.

Date: December 7, 2020

Respectfully submitted,

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